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January 19, 1999

Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals - TW-A325
445 Twelfth Street, S.W.
Washington, DC 20554

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JAN 19 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte
Advanced Services Rulemaking
CC Docket No. 98-147

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's rules, 47 C.F.R. Sections 1.1206(b)(1) and (2), I am providing this notice of an oral and written *ex parte* presentation in the above-captioned matter.

On January 15, 1999, myself, Kay Burin, Vice President/Data Services, KMC Telecom, Inc., and Jonathan Draluck of this firm met with Paul Gallant, Office of Commissioner Gloria Tristani and presented views concerning issues in the above-captioned proceeding. We presented views described in the attached outline of the presentation which was provided to Mr. Gallant.

Two copies of this letter are enclosed.

Sincerely,



Patrick Donovan

cc: Paul Gallant

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Expediting Deployment of Advanced Services

Kay Burin

Vice President-Data Services

KMC Telecom

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January 15, 1999

Topics of Discussion

- KMC Strategies
- Collocation and Unbundled Network Elements
- InterLATA Relief
- Separate RBOC Subsidiary

KMC Telecom

- KMC is authorized to provide competitive services in 18 states and Puerto Rico
- Through its fiber optic-based switching systems deployed to date, KMC provides services in Tier III markets in Huntsville, Melbourne, Pensacola, Sarasota, Tallahassee, Savannah, Augusta, Topeka, Baton Rouge, Shreveport, Greensboro, Winston-Salem, Corpus Christi, Roanoke and Madison
- KMC is planning to serve surrounding Tier IV markets
- KMC is planning to extend its service into the residential market

KMC Offers Advanced Services

- ClearStar™ -- Centrex-based voice data applications/ISDN
- Facilitating Dynamic Bandwidth through HDSL
- Port Wholesaling
 - ◆ Remote Access and SS7 Gateways
- Wideband Access Management, including integrated 5ESS Platforms

Collocation and Unbundled Network Elements -- Enforcing and Strengthening Obligations

- KMC applauds reports that the Commission will adopt strengthened collocation and unbundling requirements
- Collocation and UNEs are required for CLEC provisioning of advanced services
- Nondiscriminatory access to collocation space and network elements will subject RBOCs to competitive pressures, thereby encouraging deployment of advanced services

InterLATA Relief

-- Legal Requirements

- Statutory mandate of Section 271 is clear
- Under the current regime, RBOCs themselves have control over InterLATA Relief
- Section 706 does not overturn compliance with the 14-point competitive checklist

InterLATA Relief

-- Policy Considerations

- No Commission action is necessary to promote advanced services in rural areas
 - ◆ Market demand will attract all providers
- RBOCs do not (or should not) have a unique advantage to offer advanced services
- RBOCs have recently announced major ADSL initiatives: SBC, Bell Atlantic/AOL
- CLECs can and will offer such services

InterLATA Relief -- Policy Considerations (continued)

- Commission should not abandon carrot and stick approach of Act
- No better incentive to offer advanced services than mechanisms already in place:
 - ◆ Vigorous enforcement of Section 271 and Competition itself
- No current need to protect rural end users, who enjoy the same access to the Internet as urban customers

Separate RBOC Affiliates

-- Legal Definition

- Section 251(h) bars ILECs from sidestepping their market-opening obligations
- Section 272 obligations do not make an affiliate a non-ILEC for these purposes
- Proposed separations are inadequate
 - ◆ Outside ownership
 - ◆ Joint Marketing
 - ◆ UNEs, Collocation and CPNI on same terms and conditions

Separation Requirements

- Additional safeguards are critical
 - ◆ transfer of facilities
 - ◆ resale obligations
 - ◆ spectrum sharing
 - ◆ extended link

Separate RBOC Affiliates -- Policy Considerations

- Network bifurcation could result in effective deregulation of all new services
- Separation of data affiliates will eliminate incentives to maintain and improve public switched network



Conclusion

- FCC should abandon the separate affiliate initiative
- FCC should not provide interLATA relief absent Section 271 compliance